

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

**BASF CORPORATION, as successor in interest to
CIBA CORPORATION,**

Plaintiff,

v.

**AIU INSURANCE COMPANY, ALLIANZ
GLOBAL RISKS US INSURANCE COMPANY,
ALLIANZ VERSICHERUNGS-AG, ALLSTATE
INSURANCE COMPANY, AXA GROUP AG, AXA
INSURANCE COMPANY, EMPLOYERS
MUTUAL CASUALTY COMPANY, FIRST STATE
INSURANCE COMPANY, GRANITE STATE
INSURANCE COMPANY, HDI GLOBAL
INSURANCE COMPANY, HDI GLOBAL SE,
INSCO LTD., INSURANCE COMPANY OF
NORTH AMERICA, INSURANCE COMPANY OF
THE STATE OF PENNSYLVANIA, INTERSTATE
FIRE & CASUALTY COMPANY, NATIONAL
UNION FIRE INSURANCE COMPANY OF
PITTSBURGH, PA, NEW ENGLAND
INSURANCE COMPANY, RSA INSURANCE
GROUP LIMITED, TIG INSURANCE COMPANY,
TRAVELERS CASUALTY & SURETY
COMPANY, TWIN CITY FIRE INSURANCE
COMPANY WESTPORT INSURANCE
CORPORATION and ZURICH INSURANCE
GROUP LTD.,**

Defendants.

**Civil Action No. 2:24-cv-993
(RMG)**

**DEFENDANTS AIU INSURANCE COMPANY, GRANITE STATE INSURANCE
COMPANY, INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA, AND
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.'S
NOTICE OF MOTION AND MOTION TO DISMISS OR, ALTERNATIVELY,
STAY THIS ACTION**

To:

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Via E-filing

-and-

Counsel of Record for all parties who have made an appearance, through e-filing.

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 12(b)(1), (2), (3), and (6), and other applicable authority, Defendants AIU Insurance Company, Granite State Insurance Company, Insurance Company of the State of Pennsylvania, and National Union Fire Insurance Company of Pittsburgh, Pa., by their undersigned attorneys, will move this Court at the J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, SC 29401, on a date and time designated by the Court, for an order dismissing this action in its entirety, or, in the alternative, staying these proceedings in favor of the more comprehensive coverage action filed by Plaintiff BASF Corporation in New Jersey state court. The bases for relief are set forth in the accompanying Memorandum.

PLEASE ALSO TAKE NOTICE that Counsel states that this motion is excluded from Local Civil Rule 7.02 under Rule 7.02(A). *See* Local Civ. Rule 7.02(A) (D.S.C.).

MOTION

Defendants AIU Insurance Company, Granite State Insurance Company, Insurance Company of the State of Pennsylvania, and National Union Fire Insurance Company of Pittsburgh, Pa. (collectively, the “Partial AIG Insurers”), hereby move the Court, pursuant to Federal Rule of Civil Procedure 12(b)(1), (2), (3), and (6), and other applicable authority, to dismiss the Complaint filed by Plaintiff BASF Corporation, as successor-in-interest to Ciba Corporation (“BASF”). In the alternative, the Partial AIG Insurers respectfully request the Court stay these proceedings pending resolution of the more comprehensive action filed by Plaintiff BASF Corporation in New Jersey state court.

In support of its Motion, the Partial AIG Insurers state:

- Judicial economy rarely favors two overlapping actions proceeding concurrently in state and/or federal courts. The circumstances here involve *three* duplicative actions. This overlap is unnecessary and costly to all parties involved. By filing a more comprehensive action in New Jersey state court, BASF has made its choice of forum clear. The Court should stay this action under its general authority to control its docket or dismiss this action under the *Brillhart-Wilton* and *Colorado River* abstention doctrines.
- This action involves a foreign corporation, BASF, suing foreign corporations, the Defendant insurers, on matters not concerning South Carolina. The Court should apply South Carolina’s door-closing statute and dismiss this action.
- Personal jurisdiction over the Partial AIG Insurers is lacking. None of them is “at home” in South Carolina, nor is there any strong relationship between the Partial AIG Insurers, South Carolina, and the insurance policies at issue in this litigation. The Court should dismiss this action for lack of personal jurisdiction.
- Other forums are more appropriate and convenient than South Carolina, and the action should be dismissed based on *forum non conveniens*.
- BASF failed to join indispensable parties, specifically many of its other insurers that it is suing in the New Jersey action. Dismissal is warranted for that reason.

For these reasons, which are set forth more fully in the Partial AIG Insurers’ accompanying Memorandum, the Court should dismiss, or alternatively stay, this action.

Respectfully submitted,

COLLINS & LACY, P.C.

/s/ Christian Stegmaier

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April 24, 2024
Columbia, South Carolina